

109TH CONGRESS
1ST SESSION

S. 1975

To prohibit deceptive practices in Federal elections.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 8, 2005

Mr. OBAMA introduced the following bill; which was read twice and referred
to the Committee on Rules and Administration

A BILL

To prohibit deceptive practices in Federal elections.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Deceptive Practices
5 and Voter Intimidation Prevention Act of 2005”.

6 **SEC. 2. DECEPTIVE PRACTICES IN ELECTIONS.**

7 (a) CIVIL ACTION.—

8 (1) IN GENERAL.—Subsection (b) of section
9 2004 of the Revised Statutes (42 U.S.C. 1971(b)) is
10 amended—

11 (A) by striking “No person” and inserting
12 the following:

1 “(1) No person”; and

2 (B) by inserting at the end the following
3 new paragraph:

4 “(2) No person, whether acting under color of
5 law or otherwise, shall knowingly deceive any other
6 person regarding—

7 “(A) the time, place, or manner of con-
8 ducting a general, primary, run-off, or special
9 election for the office of President, Vice Presi-
10 dent, presidential elector, Member of the Sen-
11 ate, Member of the House of Representatives,
12 or Delegate or Commissioner from a territory
13 or possession; or

14 “(B) the qualifications for or restrictions
15 on voter eligibility for any election described in
16 subparagraph (A).”.

17 (2) PRIVATE RIGHT OF ACTION.—

18 (A) IN GENERAL.—Subsection (c) of sec-
19 tion 2004 of the Revised Statutes (42 U.S.C.
20 1971(c)) is amended—

21 (i) by striking “Whenever any person”
22 and inserting the following:

23 “(1) Whenever any person”; and

24 (ii) by adding at the end the following
25 new paragraph:

1 “(2) Any person aggrieved by a violation of
 2 subsection (b)(2) may institute a civil action or other
 3 proper proceeding for preventive relief, including an
 4 application in a United States district court for a
 5 permanent or temporary injunction, restraining
 6 order, or other order.”.

7 (B) CONFORMING AMENDMENTS.—

8 (i) Subsection (e) of section 2004 of
 9 the Revised Statutes (42 U.S.C. 1971(e))
 10 is amended by striking “subsection (c)”
 11 and inserting “subsection (c)(1)”.

12 (ii) Subsection (g) of section 2004 of
 13 the Revised Statutes (42 U.S.C. 1971(g))
 14 is amended by striking “subsection (c)”
 15 and inserting “subsection (c)(1)”.

16 (b) CRIMINAL PENALTY.—Section 594 of title 18,
 17 United States Code, is amended—

18 (1) by striking “Whoever” and inserting the fol-
 19 lowing:

20 “(a) INTIMIDATION.—Whoever”; and

21 (2) by adding at the end the following:

22 “(b) DECEPTIVE ACTS.—

23 “(1) PROHIBITION.—

24 “(A) IN GENERAL.—It shall be unlawful
 25 for any person to knowingly deceive another

1 person regarding the time, place, or manner of
 2 an election described in subparagraph (B), or
 3 the qualifications for or restrictions on voter eli-
 4 gibility for any such election, with the intent to
 5 prevent such person from exercising the right to
 6 vote in such election.

7 “(B) ELECTION.—An election described in
 8 this subparagraph is any general, primary, run-
 9 off, or special election for the office of Presi-
 10 dent, Vice President, presidential elector, Mem-
 11 ber of the Senate, Member of the House of
 12 Representatives, Delegate of the District of Co-
 13 lumbia, or Resident Commissioner.

14 “(2) PENALTY.—Any person who violates para-
 15 graph (1) shall be fined not more than \$100,000,
 16 imprisoned not more than 1 year, or both.”.

17 (c) EFFECTIVE DATE.—The amendments made by
 18 this section shall take effect on the date of the enactment
 19 of this Act.

20 **SEC. 3. REPORTING FALSE ELECTION INFORMATION.**

21 (a) IN GENERAL.—Any person may report to the As-
 22 sistant Attorney General of the Civil Rights Division of
 23 the Department of Justice, or the designee of such Assist-
 24 ant Attorney General, any act of deception regarding—

1 (1) the time, place, or manner of conducting a
2 general, primary, run-off, or special election for Fed-
3 eral office; or

4 (2) the qualifications for or restrictions on voter
5 eligibility for any general, primary, run-off, or spe-
6 cial election for Federal office.

7 (b) CORRECTIVE ACTION.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), not later than 48 hours after receiving a
10 report under subsection (a), the Assistant Attorney
11 General shall investigate such report and, if the As-
12 sistant Attorney General determines that an act of
13 deception described in subsection (a) occurred,
14 shall—

15 (A) undertake all effective measures nec-
16 essary to provide correct information to voters
17 affected by the deception, and

18 (B) refer the matter to the appropriate
19 Federal and State authorities for criminal pros-
20 ecution.

21 (2) REPORTS WITHIN 72 HOURS OF AN ELEC-
22 TION.—If a report under subsection (a) is received
23 within 72 hours before the election described in such
24 subsection, the Assistant Attorney General shall im-
25 mediately investigate such report and, if the Assist-

1 ant Attorney General determines that an act of de-
2 ception described in subsection (a) occurred, shall
3 immediately undertake all effective measures nec-
4 essary to provide correct information to voters af-
5 fected by the deception.

6 (3) REGULATIONS.—

7 (A) IN GENERAL.—The Attorney General
8 shall promulgate regulations regarding the
9 methods and means of corrective actions to be
10 taken under paragraphs (1) and (2). Such regu-
11 lations shall be developed in consultation with
12 the Election Assistance Commission, civil rights
13 organizations, voting rights groups, State elec-
14 tion officials, voter protection groups, and other
15 interested community organizations.

16 (B) STUDY.—

17 (i) IN GENERAL.—The Attorney Gen-
18 eral, in consultation with the Federal Com-
19 munications Commission and the Election
20 Assistance Commission, shall conduct a
21 study on the feasibility of providing the
22 corrective information under paragraphs
23 (1) and (2) through public service an-
24 nouncements, the emergency alert system,
25 or other forms of public broadcast.

1 (ii) REPORT.—Not later than 180
2 days after the date of the enactment of
3 this Act, the Attorney General shall submit
4 to Congress a report detailing the results
5 of the study conducted under clause (i).

6 (c) REPORTS TO CONGRESS.—

7 (1) IN GENERAL.—Not later than 90 days after
8 any primary, general, or run-off election for Federal
9 office, the Attorney General shall submit to the ap-
10 propriate committees of Congress a report compiling
11 and detailing any allegations of deceptive practices
12 submitted pursuant to subsection (a) and relating to
13 such election.

14 (2) CONTENTS.—

15 (A) IN GENERAL.—Each report submitted
16 under paragraph (1) shall include—

17 (i) detailed information on specific al-
18 legations of deceptive tactics;

19 (ii) any corrective actions taken in re-
20 sponse to such allegations;

21 (iii) the effectiveness of any such cor-
22 rective actions;

23 (iv) any suit instituted under section
24 2004(b)(2) of the Revised Statutes (42

1 U.S.C. 1971(b)(2)) in connection with such
2 allegations;

3 (v) statistical compilations of how
4 many allegations were made and of what
5 type;

6 (vi) the geographic locations of and
7 the populations affected by the alleged de-
8 ceptive information; and

9 (vii) the status of the investigations of
10 such allegations.

11 (B) EXCEPTION.—The Attorney General
12 may withhold any information that the Attorney
13 General determines would unduly interfere with
14 an on-going investigation.

15 (3) REPORT MADE PUBLIC.—The Attorney
16 General shall make the report required under para-
17 graph (1) publicly available through the Internet
18 and other appropriate means.

19 (d) FEDERAL OFFICE.—For purposes of this section,
20 the term “Federal office” means the office of President,
21 Vice President, presidential elector, Member of the Senate,
22 Member of the House of Representatives, or Delegate or
23 Commissioner from a territory or possession of the United
24 States.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Attorney General
3 such sums as may be necessary to carry out this section.

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